

FILED  
IN CLERK'S OFFICE  
U S DISTRICT COURT E D N Y

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

★ APR 10 2014 ★  
LONG ISLAND OFFICE

-----X  
UNITED STATES OF AMERICA

-against-

STANDARD PLEA FORM

MICHAEL MARGANDA

11 -CR- 804 (LDW)

Defendant

-----X

**THE GOVERNMENT MUST FIRST ANSWER QUESTIONS 26 AND 27.**

EACH DEFENDANT, BEFORE TAKING A PLEA, IS OBLIGATED TO READ AND  
COMPLETE THE QUESTIONS AS SET FORTH BELOW.

**TO THE DEFENDANT:**

- (1) MICHAEL MARGANDA, before accepting your plea there are a number of questions I must ask to assure that it is a valid plea. If you do not understand any of my questions, please say so and I will reword the question.
- (2) Will the Clerk please swear the defendant.
- (3) Do you understand that, having been sworn, your answers to my questions will be subject to the penalties of perjury or of making a false statement if you do not answer truthfully?

YES X NO       

- (4) What is your full name?

MICHAEL KEVIN MARGANDA

(5) How old are you?

36

(6) Are you a citizen of the United States?

YES X NO \_\_\_\_\_

*(If you are NOT a citizen, answer questions 6A and 6B.)*

(6A) Have you discussed with counsel whether or not your guilty plea will have any effect on your ability to remain in this country?

YES X NO \_\_\_\_\_

(6B) Are you satisfied that you understand the effect that a guilty plea in this case may have on your right to remain in this country after any sentence is served?

YES X NO \_\_\_\_\_

(7) What is the highest schooling or education you have had?

1 YEAR OF COLLEGE

(8) Are you presently or have you been recently under the care of a physician or psychiatrist?

YES X NO \_\_\_\_\_

(9) In the past 24 hours, have you taken any narcotic drugs, medicine or pills or drunk any alcoholic beverage?

YES X NO \_\_\_\_\_

(10) Have you ever been hospitalized or treated for narcotic addiction?

YES \_\_\_\_\_ NO X

(11) Is your mind clear?

YES X NO \_\_\_\_\_

(12) Do you understand what is going on here?

YES  NO

**TO DEFENSE COUNSEL:**

(13) Have you discussed this matter with your client?

YES  NO

(14) Does he/she understand the rights he/she would be waiving by pleading guilty?

YES  NO

(15) Is he/she capable of understanding the nature of these proceedings?

YES  NO

(16) Do you have any doubt as to the defendant's competency to plead at this time?

YES  NO

**TO THE DEFENDANT:**

(17) You have a right to plead not guilty. Do you understand?

YES  NO

(18) If you plead not guilty, under the constitution and laws of the United States, you are entitled to a speedy and public trial by jury with the assistance of counsel on the charges. Do you understand?

YES  NO

(19) At the trial, you would be presumed to be innocent and the government would have to overcome that presumption and prove you guilty by competent evidence and beyond a reasonable doubt and you would not have to prove that you are innocent. And if the government failed, the jury would have the duty to find you not guilty. Do you

understand?

YES X NO \_\_\_\_\_

(20) In the course of the trial, the witnesses for the government have to come to court and testify in your presence and your counsel has the right to cross-examine the witnesses for the government, to object to evidence offered by the government and to offer evidence on your behalf. Do you understand?

YES X NO \_\_\_\_\_

(21) At the trial, while you would have the right to testify if you choose to do so, you would not be required to testify. Under the Constitution of the United States, you cannot be compelled to incriminate yourself. If you decided not to testify, the Court would instruct the jury that they could not hold that against you. Do you understand?

YES X NO \_\_\_\_\_

(22) If you plead guilty and if I accept the plea, you will be giving up your constitutional rights to a trial and the other rights I have just discussed. There will be no further trial of any kind and no right to appeal or collaterally attack at any time question whether you are guilty or not. A judgment of guilty will be entered on the basis of your guilty plea which judgment can never be challenged. However, you have the right to appeal with respect to sentence. Do you understand?

YES X NO \_\_\_\_\_

(23) If you plead guilty, I will have to ask you questions about what you did in order to satisfy myself that you are guilty of the charge(s) to which you seek to plead guilty and you will have to answer my questions and acknowledge your guilt. Thus, you will be giving up

your right not to incriminate yourself. Do you understand?

YES  NO

(24) Are you willing to give up your right to a trial and the other rights I have just discussed?

YES  NO

**TO THE GOVERNMENT:**

(25) What agreement, if any, do you have concerning the plea and sentence?

*(This portion will be taken in open court.)*

(26) The Government is to list whether there is any waiver of appeal, or other waiver of rights included in the plea agreement:

① Dft agrees to waive right to appeal if sentenced to 78 months or less

② Dft will not contest the drug type and amount set forth in the lab reports

(27) The Government is to list the elements of the crime charged in the (Superceding)

Indictment/Information:

a) On or about and between 7/11 and 11/11

b) within the EDNY

c) the defendant knowingly and intentionally

d) agreed with another person

e) to distribute and possess with intent to distribute

f) marijuana plants

**TO THE DEFENDANT:**

(28) Are you aware of the elements of the crime which you are charged and as to which you

wish to plead guilty?

YES  NO \_\_\_\_\_

(29) Have you discussed with your counsel the charge(s) and the (Superseding) Indictment/Information to which you intend to plead guilty?

YES  NO \_\_\_\_\_

(30) Do you understand the charge(s) in the (Superseding) Indictment/Information which you are pleading guilty to?

YES  NO \_\_\_\_\_

(31) Do you know the maximum sentence and fine I might impose on each of the charges to which you are seeking to plead guilty?

YES  NO \_\_\_\_\_

(32) The maximum possible penalty under count(s) 1 is 20 years in jail, plus a fine of \$ 1 MILLION. (If there are more than one count to which the defendant intends to plea, follow same procedures with respect to each count.)

(33) Do you realize there is a \$100 Special Assessment Fine for each count? (Corporate defendant(s) have a \$400.00 Special Assessment Fine for each count.)

YES  NO \_\_\_\_\_

(34) Do you realize the Court may order restitution if it so directs?

YES  NO \_\_\_\_\_

(35) Do you realize that if any jail time is imposed, a period of 3 years of Supervised Release must be imposed?

YES  NO \_\_\_\_\_

(36) Have you discussed the Sentencing Guidelines with your attorney?

YES X NO \_\_\_\_\_

(37) Do you understand that the Sentencing Guidelines are not mandatory, but that, in sentencing, the Court is required to consider the applicable guideline range along with the statutory factors listed in 18 U.S.C. § 3553(a), and that the Court will consider the nature and circumstances of the offence and your criminal history, if any, and your characteristics?

YES X NO \_\_\_\_\_

(38) I will now read the statutory factors listed in 18 U.S.C. § 3553(a):

The court must impose a sentence sufficient, but not greater than necessary:

- 1a) to reflect the seriousness of the offense,
- 1b) to promote respect for the law, and
- 1c) to provide just punishment for the offense;
- 2) to afford deterrence as to other criminal conduct;
- 3) to protect the public from further crimes by you; and
- 4) to provide you with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

At sentencing, the Court must also consider your cooperation if the Government submits a 5K1.1 letter.

(39) Has your attorney explained these factors listed in 18 U.S.C. § 3553(a)?

YES X NO \_\_\_\_\_

(40) Do you realize that if the sentence is more severe than you expected, you will be bound by your guilty plea and will not be permitted to withdraw it?

YES  NO

(41) Do you have any questions you would like to ask me about the charge(s), your rights, or anything else relating to this matter?

YES  NO

(42) Are you ready to plead?

YES  NO

**TO DEFENSE COUNSEL:**

(43) Do you know any legal reason why the defendant should not plead guilty?

YES  NO

**TO THE DEFENDANT:**

(44) Are you satisfied with your legal representation up until this point?

YES  NO

(45) Do you believe your lawyer did a good job?

YES  NO

(46) What is your plea?

GUILTY  NOT GUILTY

(47) Are you making the plea of guilty voluntarily and of your own free will?

YES  NO

(48) Has anyone threatened or forced you to plead guilty?

YES  NO

(49) Other than the agreement with the Government as stated on the record, has anyone made any promises that caused you to plead guilty?

YES  NO

(50) Has anyone made any promise to you as to what your sentence will be?

YES  NO

(51) Describe in your own words what you did in connection with the acts charged in count(s) \_\_\_\_\_ of the (Superceding) Indictment/Information in which you are pleading guilty.

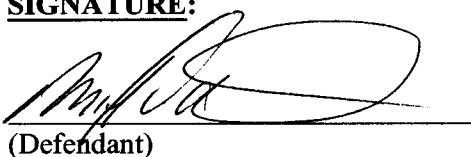
*(You do not have to fill this in. This portion will be taken in open court.)*

(52) The government will now outline their proof.

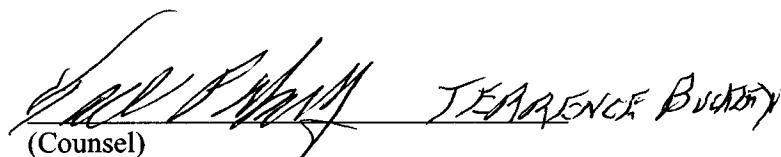
*(This portion will be taken in open court.)*

(53) Based upon the information given to me, I find the defendant is acting voluntarily, fully understands his/her rights and the consequences of his/her plea and that there is a factual basis for the plea. I, therefore, accept the plea of guilty to count(s) \_\_\_\_\_ of the (Superceding) Indictment/Information.

**SIGNATURE:**



(Defendant)



(Counsel)

Address:

351 VETERANS HIGHWAY  
COMMACK NY  
11725

Phone: 543-3030

Revised: November 6, 2013